United Nations CAT/C/GHA/QPR/2

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues prior to submission of the second periodic report of Ghana*

The Committee against Torture, at its thirty-eighth session (A/62/44, paras. 23 and 24), established an optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

Specific information on the implementation of articles 1-16 of the Convention, including with regard to the Committee's previous recommendations

Articles 1 and 4

1. With reference to the Committee's previous concluding observations (see CAT/C/GHA/CO/1, para. 9),[1] please provide detailed information on the measures taken to adopt a definition of torture in domestic penal law that is consistent with article 1 of the Convention and that includes appropriate penalties, taking into account the grave nature of such acts.[2]

* Adopted by the Committee at its fifty-sixth session (9 November-9 December 2015).

[1] Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

[2] See also A/HRC/25/60/Add.1, para. 9.

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Article 2[3]

2. In the light of the Committee's previous concluding observations (para. 10), please provide information on the steps taken, and the procedures in place, to ensure that all persons deprived of their liberty are:

(a) Promptly brought before a judge and guaranteed the possibility to challenge effectively and expeditiously the lawfulness of their interrogation;[4]

(b) Guaranteed access to a lawyer of their choice (please provide information on any measures that have been adopted to expand the number of legal aid defence lawyers);[5]

(c) Informed, in a language that they understand, of the reasons for their arrest and the nature of any charges brought against them;

(d) Registered promptly at the actual moment of deprivation of liberty and that custody records at police custody facilities are inspected periodically.

3. Please provide information on the measures taken to maintain the privacy and confidentiality of medical examinations of detainees (para. 10 (e)).

4. Further to the Committee's previous concluding observations (para. 11), please indicate what legislative measures have been adopted to guarantee the principle of absolute prohibition of torture, including during public emergencies.

5. With reference to the previous concluding observations (para. 14), please describe the measures taken to ensure that the Commission on Human Rights and Administrative Justice operates in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), so as to guarantee its operational independence, and that adequate resources are assigned to it.[6]

6. Concerning the previous concluding observations (para. 22), please provide information, disaggregated by age and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences handed down in cases of gender-based violence since the consideration of the initial report of Ghana in 2011. Please also provide information on the measures, including legislative measures, adopted to address concerns regarding domestic violence and marital rape.[7]

7. As requested in the Committee's previous concluding observations (paras. 23 and 26), please provide up-to-date statistics on complaints, investigations, prosecutions, convictions and sentences imposed on perpetrators of criminal acts related to harmful traditional practices, and on the assistance and compensation afforded to victims. In addition, please indicate the measures that the State party has taken to strengthen its efforts

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[3] The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

[4] See A/HRC/25/60/Add.1, para. 25.

[5] Ibid., paras. 26-28 and 84. See also A/HRC/22/6, para. 17.

[6] See A/HRC/22/6, para. 36.

[7] See CEDAW/C/GHA/CO/6-7, paras. 26-27; A/HRC/22/6, paras. 13-14, 16, 23, 31, 33, 45-47, 61, 64, 76, 79, 85, 90-91, 99 and 101; and A/HRC/27/53/Add.3, para. 18.

to combat harmful traditional practices, including female genital mutilation, *trokosi* (ritual or customary slavery) and widowhood rites.[8]

8. With reference to the previous concluding observations (para. 21), please provide updated information, disaggregated by age, sex and ethnic origin or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of human trafficking since the consideration of the State party's initial report.[9] Please also provide additional information on:

(a) Any new legislation or measure that has been adopted to prevent, combat and criminalize trafficking in persons;[10]

(b) The measures adopted to ensure that victims of human trafficking have access to effective remedies and reparation;[11]

(c) The signature of bilateral or subregional agreements with the countries concerned to prevent and combat human trafficking.

Article 3

9. Please provide information on the measures that have been taken to revise national legislation on refugees and asylum seekers to fulfil all obligations under article 3 of the Convention.

10. With reference to the previous concluding observations (para. 20), please provide information on the measures taken to guarantee that persons who may be in need of international protection have unhindered access to fair and efficient asylum procedures. Please also outline the steps taken to reinforce the capacity of the Ghana Refugee Board to process refugee claims of asylum seekers in the country. Please indicate the status of the draft bill of the Ghana Refugee Commission Act.

11. Please provide information about the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. Please include information, broken down by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled since the consideration of the initial report. Please provide details on the grounds on which they were sent back, including a list of countries to which individuals were returned. Please provide updated information on the type of appeal mechanisms that may exist, on whether any appeals have been made and, if so, their outcome.

12. Please indicate the number of cases of refoulement, extradition and expulsion carried out by the State party during the reporting period through the acceptance of diplomatic assurances or the equivalent thereof, as well as any instances in which the State party has offered such diplomatic assurances or guarantees. What are the minimum contents of any such assurances or guarantees, whether given or received, and what measures with regard to subsequent monitoring have been taken in such cases?

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[8] See CEDAW/C/GHA/CO/6-7, paras. 22-25; A/HRC/22/6, paras. 43, 48, 66-67, 82, 85, 89, 102, 106 and 111; and A/HRC/27/53/Add.3, paras. 18, 61-64, 107-108.

[9] See CEDAW/C/GHA/CO/6-7, paras. 28-29; A/HRC/22/6, para. 105; and A/HRC/27/53/Add.3, paras. 17 and 26.

[10] See A/HRC/27/53/Add.3, paras. 16 and 26.

[11] See A/HRC/22/6, para. 77.

Articles 5-9

13. Please indicate the legislative or other measures that have been taken to implement article 5 of the Convention. Are acts of torture considered universal crimes under national law, wherever they occur and whatever the nationality of the perpetrator or the victim? Please provide relevant examples of any prosecutions in that regard.

14. Please inform the Committee of any extradition treaties concluded with other State parties and whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties.

15. Please clarify what mutual judicial assistance treaties or agreements Ghana has entered into with other countries, international tribunals or international institutions, among others, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. Please provide examples.

Article 10

16. With reference to the previous concluding observations (para. 25), please provide up-to-date information on educational programmes developed by the State party to ensure that all law enforcement officials, including police officers and prison personnel, are fully aware of the provisions of the Convention, that breaches will not be tolerated and will be investigated, and that any offenders will be prosecuted.[12] Please indicate whether the State party has developed a methodology to assess the effectiveness of training and educational programmes on the reduction in cases of torture and ill-treatment and, if so, please provide information on the methodology.

17. Please provide detailed information on training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons, to detect and document physical and psychological sequelae of torture. Do such programmes include specific training with regard to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)?

Article 11

18. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any rules, instructions, methods and practices or arrangements for custody that may have been introduced since the consideration of the previous report. Please also indicate the frequency with which these are reviewed.

19. Concerning the previous concluding observations (para. 16), please provide updated statistical data, disaggregated by sex, age, ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention. What steps have been taken to implement non-custodial sentences beyond monetary fines? Please describe the measures adopted and progress made in improving prison conditions,[13] including those taken to lower the high levels of occupancy,[14] upgrade health services[15] and improve the food[16] and sanitary conditions.[17] Please inform the Committee on the measures

[12] Ibid., para. 31.
[13] Ibid., paras. 25 and 71. See also A/HRC/25/60/Add.1, paras. 17 and 85.
[14] See A/HRC/22/6, para. 73; and A/HRC/25/60/Add.1, paras. 18-19 and 40-44.
[15] See A/HRC/22/6, para.72; and A/HRC/25/60/Add.1, paras. 49-53 and 85.
[16] See A/HRC/25/60/Add.1, paras. 45-48 and 85.
[17] Ibid., paras. 54-55 and 85.

taken to address concerns regarding prolonged pretrial detention.[18] Please also provide information on the efforts by the State party to meet the special needs of minors[19] and women[20] in detention. What measures are in place to guarantee that juvenile offenders are held separately from adults?[21] Please comment on reports that prolonged solitary confinement, reductions in prisoners' diets and corporal punishment, such as caning, continue to be used as disciplinary sanctions by prison guards.[22]

20. Please provide information, disaggregated by sex, age, ethnic origin and nationality, on the number of prisoners sentenced to death who are awaiting execution. What are the conditions of detention of prisoners on death row?[23]

21. Regarding the Committee's previous concluding observations (para. 17), please provide information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with psychosocial disabilities, including residential prayer camps.[24] Please comment on reports that individuals with psychosocial disabilities are routinely institutionalized against their will by family members or police officers and arbitrarily detained in such centres. Please comment on allegations of physical and verbal abuse committed by staff at hospitals and prayer camps.[25] Please include information on the outcome of the investigations and any criminal proceedings related to such allegations. Please indicate what the situation is with respect to alternative forms of treatment, such as community-based rehabilitation services and other forms of outpatient treatment programmes.

22. With regard to the Committee's previous concluding observations (para. 18), please provide information about the State party's efforts to establish a national system to effectively monitor and inspect all places of detention and to react to the findings of the systemic review.[26] Are representatives of non-governmental organizations and the International Committee of the Red Cross permitted to conduct regular and unannounced visits to all places of detention?

23. Please provide information about the frequency of inter-prisoner violence, including any case involving possible negligence on the part of law enforcement personnel, the number of complaints made in this regard and their outcome. What preventive measures have been taken?[27]

24. As requested in the Committee's previous concluding observations (para. 16), please provide disaggregated statistical data regarding deaths in custody during the period under consideration, broken down by place of detention, sex, age and ethnicity or nationality of the deceased and cause of death. Please provide detailed information on the results of the investigations into these deaths and on the measures taken to prevent the reoccurrence of similar cases. Please indicate whether, in any of the cases, relatives received compensation.[28]

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[18] See A/HRC/22/6, para. 18; and A/HRC/25/60/Add.1, paras. 23, 28 and 84.
[19] See A/HRC/25/60/Add.1, paras. 63-65.
[20] Ibid., paras. 66-67.
[21] Ibid., para. 18.
[22] Ibid., paras. 20, 64-65 and 89.
[23] Ibid., para. 62.
[24] Ibid., paras. 68-81.
[25] See A/HRC/22/6, para. 26; and A/HRC/25/60/Add.1, paras. 74-75 and 91-93.
[26] See A/HRC/25/60/Add.1, paras. 37-38 and 87.
[27] Ibid., para. 20.
[28] Ibid., para. 21.

25. Please provide information about efforts to expand opportunities for detainees to receive education and training in order to aid in the successful resettlement of detainees into society upon their release, as stated in the Ghana Prisons Service's mission statement. Please provide data, disaggregated by age, sex and nationality, on how many detainees take advantage of educational programmes and training opportunities currently provided. Please also provide information on steps taken to create facilities where detainees, particularly juvenile detainees, may participate in physical exercise.

Articles 12 and 13

26. In the light of the Committee's previous concluding observations (para. 19), please provide details on the steps taken to establish a fully independent complaints mechanism to ensure prompt, impartial and full investigations into all allegations of torture.[29]

27. As requested in the Committee's previous concluding observations (para. 26), please provide updated statistical data, disaggregated by sex, age, ethnic origin or nationality and place of detention, on complaints of acts of torture and ill-treatment recorded during the reporting period (para. 15).[30] Please include information on investigations, disciplinary and criminal proceedings, convictions and criminal or disciplinary sanctions applied. In this regard, please provide examples of relevant cases and/or judicial decisions.

Article 14

28. Please provide information on redress and compensation measures, including the means of rehabilitation ordered by the courts and actually provided to the victims of torture, or their families, since the consideration of the initial report. This information should include the number of requests made, the number granted, the amounts ordered and the amounts actually provided in each case. Please also provide information on any ongoing reparations programmes, including for the treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, and on the material, human and budgetary resources allocated for their effective functioning.

Article 15

29. With regard to the Committee's previous concluding observations (para. 13), please provide information on the concrete measures taken to ensure respect, both in law and in practice, for the principle of inadmissibility of evidence obtained through torture. Please provide examples of any cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment.[31]

Article 16

30. Please provide information on the practical measures adopted to eradicate child labour[32] and to combat child abuse, including corporal punishment in all contexts, in the home, schools and alternative care settings (para. 24).

31. Please describe any steps the State party has taken to decriminalize same-sex sexual activity between consenting adults. Additionally, please provide information on any efforts undertaken by the State party to protect the human rights of lesbian, gay, bisexual and transgender people.

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[29] Ibid., paras. 14, 32-33 and 88.

[30] See A/HRC/22/6, paras. 41 and 98; and A/HRC/25/60/Add.1, paras. 12-14, 16, 34-35, 83 and 88.

[31] See A/HRC/25/60/Add.1, paras. 30-31.

[32] See A/HRC/22/6, para. 48; and A/HRC/27/53/Add.3, paras.18, 20-21, 27-47 and 93-97.

Other issues

32. Concerning the previous concluding observations (para. 27), please indicate whether the State party intends to ratify the Optional Protocol to the Convention and, if so, the status of the ratification process.[33]

33. With regard to the Committee's previous concluding observations (para. 12), please indicate what steps have been taken to put to a referendum the recommendations of the Constitution Review Commission approved by the Government that require changes to the Constitution, including the removal of the death penalty.[34] Please also indicate whether the State party intends to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights.

34. Please provide updated information on the measures taken by the State party to respond to threats of terrorism, and describe if and how those anti-terrorism measures have affected human rights safeguards in law and in practice. Please explain how the State party has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with relevant Security Council resolutions, in particular resolution 1624 (2005). Please provide information on the relevant training given to law enforcement officers; the number of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to anti-terrorism measures in law and in practice; whether there have been any complaints of non-observance of international standards; and the outcome of those complaints.

General information on the human rights situation in the country, including new measures and developments relating to the implementation of the Convention

35. Please provide information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report to implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes. Please indicate the resources allocated and the provisional statistical data or any other information that the State party considers relevant.

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[33] See A/HRC/25/60/Add.1, paras. 6 and 87.

[34] See A/HRC/22/6, paras. 10, 50, 60, 92, 96, 104, 113 and 123.8; and A/HRC/25/60/Add.1, paras. 62 and 86.